

# Exhibit 5

**From:** [Alex Parker](#)  
**To:** [Hasic, Eldin](#)  
**Cc:** [Cox, Jessica Benson](#); [Trent Miracle](#); [Andrew Mossman](#); [Jacob Flint](#); [Jones, Bruce](#); [Gongaware, Micki M.](#)  
**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570  
**Date:** Friday, August 30, 2024 12:39:00 PM

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We will file a Motion to Withdraw in the Coleman case based on Magistrate Judge Baker's procedure.

Regarding the Motions to Dismiss for lack of diversity, we are not aware of any current Motions to Dismiss being served in one of our cases. Have you served one in Terrell? We saw that the Stipulations were filed in Barbour, Hayden, and Sills. Confirming that we did not miss something from you in Terrell.



### ALEX PARKER

Attorney

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**From:** Hasic, Eldin <[eldin.hasic@faegredrinker.com](mailto:eldin.hasic@faegredrinker.com)>  
**Sent:** Thursday, August 29, 2024 12:36 PM  
**To:** Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>; Gongaware, Micki M. <[micki.gongaware@faegredrinker.com](mailto:micki.gongaware@faegredrinker.com)>  
**Cc:** Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>; Trent Miracle <[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint <[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>; Jones, Bruce <[bruce.jones@faegredrinker.com](mailto;bruce.jones@faegredrinker.com)>  
**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

Alex,

We understand that your client Mr. Coleman's is deceased and that you cannot reach his family, but

the fact remains that your firm commenced a federal court lawsuit on Mr. Coleman's behalf over which the federal court does not have and has never had subject matter jurisdiction. Under these circumstances, we submit that it is not enough to merely state that you will not oppose Cook's motion to dismiss. You must either (1) dismiss the case, (2) follow Rule 25's procedure for suggesting the death of a party and substituting a new proper party or (3) follow Magistrate Judge Baker's procedure for withdrawing from representation in an action based on inability to communicate with your client. As you'll see from the orders I circulated in my prior email, Magistrate Baker has held that in situations where a client is not participating in the lawsuit and is not communicating with counsel, the appropriate resolution is dismissal of the lawsuit. Magistrate Baker's practice has been to require personal attendance of clients on a call to show cause and he has dismissed cases where parties have failed to appear.

If you do not let us know by this coming Wednesday, September 4, that you intend to take one or more of these actions, we will include the Coleman case in our filing of the motion to dismiss for cases lacking diversity jurisdiction and accompanying motion for sanctions under Rule 11 (served on you previously).

Thanks,

**Eldin Hasic**

Associate

*Admitted to Practice in Indiana*

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**From:** Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>

**Sent:** Thursday, August 22, 2024 11:23 AM

**To:** Hasic, Eldin <[eldin.hasic@faegredrinker.com](mailto:eldin.hasic@faegredrinker.com)>

**Cc:** Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>; Trent Miracle

<[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint

<[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>; Jones, Bruce <[bruce.jones@faegredrinker.com](mailto:bruce.jones@faegredrinker.com)>

**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

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Eldin,

We cannot agree to a Dismissal in Coleman since we do not have authority, but we will not oppose it.

Thanks,



**ALEX PARKER**

Attorney

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**From:** Hasic, Eldin <[eldin.hasic@faegredrinker.com](mailto:eldin.hasic@faegredrinker.com)>

**Sent:** Monday, August 19, 2024 10:32 PM

**To:** Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>

**Cc:** Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>; Trent Miracle <[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint <[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>; Jones, Bruce <[bruce.jones@faegredrinker.com](mailto:bruce.jones@faegredrinker.com)>

**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

Alex,

Understood on Terrell.

Regarding Coleman, the family members and/or estate representative would need to file a motion under Rule 25 to substitute the deceased Plaintiff if they wished to take over the case. As they are unreachable and are not expressing an interest to litigate the case based on what you have reported to us, the case should be dismissed based on the orders Magistrate Baker has issued regarding similar situations in the MDL. I've attached an order from a prior case for reference.

We appreciate that your firm has agreed the case should be dismissed on account of the

jurisdictional issue, but the case cannot remain pending on the docket if Mr. Coleman can't be reached as dismissal is the appropriate course of action for that situation as well.

Thank you,

**Eldin Hasic**

Associate

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**From:** Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>

**Sent:** Monday, August 12, 2024 4:51 PM

**To:** Hasic, Eldin <[eldin.hasic@faegredrinker.com](mailto:eldin.hasic@faegredrinker.com)>

**Cc:** Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>; Trent Miracle <[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint <[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>; Jones, Bruce <[bruce.jones@faegredrinker.com](mailto:bruce.jones@faegredrinker.com)>

**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

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Eldin,

We were unable to make contact with the Coleman family. Both Mr. Coleman and his wife are deceased. We have not been able to make contact with who we believe to be their surviving son.

We will not agree to stipulate to voluntarily dismiss Stella M. Terrell's claim without prejudice unless Cook agrees to not challenge/oppose us refiling Ms. Terrell's case in Indiana State Court on Statute of Limitations grounds.

Thanks,



**ALEX PARKER**

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**From:** Hasic, Eldin <[eldin.hasic@faegredrinker.com](mailto:eldin.hasic@faegredrinker.com)>

**Sent:** Monday, August 12, 2024 12:37 PM

**To:** Jones, Bruce <[bruce.jones@faegredrinker.com](mailto:bruce.jones@faegredrinker.com)>; Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>

**Cc:** Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>; Trent Miracle

<[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint  
<[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>

**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

Alex,

I wanted to circle back on the Indiana-resident cases. Could you please let us know if you were able to make contact with the Coleman family? Will they agree to filing the stipulation for dismissal.

For Terrell, we will include the case in the motion as Bruce noted. But I wanted to confirm the status on Coleman.

Thank you,

**Eldin Hasic**

Associate

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**From:** Jones, Bruce <[bruce.jones@faegredrinker.com](mailto:bruce.jones@faegredrinker.com)>  
**Sent:** Monday, July 15, 2024 2:34 PM  
**To:** Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>  
**Cc:** Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>; Hasic, Eldin <[eldin.hasic@faegredrinker.com](mailto:eldin.hasic@faegredrinker.com)>; Trent Miracle <[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint <[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>  
**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

Alex:

I attach for your information the stipulation of dismissal in the Hayden, Sill, and Barbour cases, which was filed this morning. We understand that you are still waiting for approval from the Coleman family for the dismissal of the Coleman action, and that you will let us know as soon as you have that approval.

As for Terrell, we have heard nothing back from you about that case since Eldin's email to you below declining to accept the added conditions you sought for the dismissal. Based on that silence, we assume that you are unwilling to dismiss Terrell on the same terms as Hayden, Sills, and Barbour, and we will therefore include Terrell in the filings of the motions to dismiss and for sanctions. If this is not your intention, please let us know as soon as possible.

**Bruce Jones**

Partner

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**From:** Hasic, Eldin <[eldin.hasic@faegredrinker.com](mailto:eldin.hasic@faegredrinker.com)>  
**Sent:** Tuesday, July 9, 2024 4:12 PM  
**To:** Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>  
**Cc:** Veldhuizen, Jen <[jen.veldhuizen@faegredrinker.com](mailto:jen.veldhuizen@faegredrinker.com)>; Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>; Jones, Bruce <[bruce.jones@faegredrinker.com](mailto:bruce.jones@faegredrinker.com)>; Trent Miracle

<[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint <[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>

**Subject:** RE: In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

Alex,

Jessica forwarded me your email. Thank you for getting back to us on these cases.

We'll send you a stip for the first four cases.

On Terrell, Cook does not agree to the additional conditions. As this case lacks subject matter jurisdiction, the court must dismiss it without prejudice. Whether a refiling would be viable and timely would be a matter of state law for a state court of appropriate jurisdiction to decide.

Thank you,

**Eldin Hasic**

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**From:** Alex Parker <[aparker@flintcooper.com](mailto:aparker@flintcooper.com)>

**Sent:** Wednesday, July 3, 2024 4:45 PM

**To:** Cox, Jessica Benson <[jessica.cox@faegredrinker.com](mailto:jessica.cox@faegredrinker.com)>

**Cc:** Trent Miracle <[tmiracle@flintcooper.com](mailto:tmiracle@flintcooper.com)>; Andrew Mossman <[amossman@flintcooper.com](mailto:amossman@flintcooper.com)>; Jacob Flint <[jflint@flintcooper.com](mailto:jflint@flintcooper.com)>; Veldhuizen, Jen <[jen.veldhuizen@faegredrinker.com](mailto:jen.veldhuizen@faegredrinker.com)>; Jones, Bruce <[bruce.jones@faegredrinker.com](mailto:bruce.jones@faegredrinker.com)>

**Subject:** In Re: Cook Medical, Inc. re Barbour, Coleman, Hayden, Sills, and Terrell, No. 2570

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Jessica,

Upon reviewing these cases, we will agree to the following:

1. We will voluntarily dismiss without prejudice the following cases:
  - a. Sharon Barbour and Myron Barbour --Civil Case #: 1:18-cv-765
  - b. Adam Coleman, Sr., and Rose Coleman -- Civil Case #: 1:18-cv-2143
  - c. Betty Hayden and Jimmie Hayden -- Civil Case #: 1:18-cv-602
  - d. Toby Sills and Sheila Sills -- Civil Case #: 1:18-cv-725
2. We will voluntarily dismiss without prejudice Stella M. Terrell, Civil Case #: 1:19-cv-4553, IF Cook agrees to not challenge/oppose us refiling Ms. Terrell's case in Indiana State Court on Statute of Limitations grounds.

Please let us know if you agree to not challenge/ oppose us refiling Ms. Terrell's case in Indiana State Court on SOL grounds and we will sign the Stipulations of Dismissal Without Prejudice in these cases.

Thank you,

**ALEX PARKER | Attorney**



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